

JUL 27 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ERIC D. RICE,

Petitioner - Appellant,

v.

CHERYL PLILER,

Respondent - Appellee.

No. 05-16642

D.C. No. CV-02-00848-GEB/JFM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, District Judge, Presiding

Submitted July 25, 2006**
San Francisco, California

Before: T.G. NELSON, SILVERMAN, and RAWLINSON, Circuit Judges.

Because the record reasonably indicates that Rice was not incompetent during his criminal proceedings in state court, the California Court of Appeal decision holding that there was “no showing” by Rice of mental incompetence was

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

not objectively unreasonable. *See Pham v. Terhune*, 400 F.3d 740, 742 (9th Cir. 2005) (per curiam); *see also Taylor v. Maddox*, 366 F.3d 992, 999 (9th Cir. 2004), *cert. denied*, 543 U.S. 1038 (2004). Accordingly, Rice is not entitled to habeas relief on his procedural and substantive due process claims. *See Williams v. Woodford*, 384 F.3d 567, 603-06, 608-09 (9th Cir. 2004), *as amended*.

AFFIRMED.